



March 19, 2024

VIA ECF

Hon. Jesse M. Furman
United States District Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Benjamin, et al., v. City of New York*, Case No. 1:23-cv-05458-JMF

Dear Judge Furman,

We represent the Plaintiffs in the above-referenced case and write on behalf of both Parties to request a stay of the discovery deadlines set forth in the Court's Civil Case Management Plan and Scheduling Order (Dkt.74) as well as an adjournment of the April 11, 2024, Pretrial Conference. The current deadline for fact discovery is April 3, 2024, and the current deadline for expert discovery is May 20, 2024. *Id.* This is the Parties' first request for a stay or extension of discovery and to adjourn the upcoming Pretrial Conference.

There is good cause for the requested stay and adjournment. This action is the third Fair Labor Standards Act (FLSA) case on behalf of individuals who are or have been employed by the City of New York in the positions of Child Protective Specialists (CPS) and Child Protective Specialist Supervisors (CPSS) employed by the City of New York in the Administration for Children's Services (ACS) (Plaintiffs). The first case, *Foster v. City of New York*, No. 1:14-cv-4142-PGG, was resolved on the eve of trial, after completing full discovery and summary judgment in favor of the plaintiffs with respect to liability, through a settlement approved by this Court on December 28, 2021. The second case, *Williams v. City of New York*, No. 1:16-cv-08671-PGG, was resolved through a settlement approved by this Court on November 7, 2022, based on the settlement model applied in *Foster*. The instant case involves the exact same claims as *Foster* and *Williams* and is brought on behalf of individuals in the exact same positions as those earlier cases. As such, the Parties believe that their efforts are best focused on achieving an early settlement consistent with the Parties' previous settlements in *Foster* and *Williams*.

To that end, the Parties have scheduled a mediation to occur on **May 17, 2024**, with a Court-appointed mediator through the District's Mediation Program. Plaintiffs submitted an initial settlement demand on February 7, 2024. Although the mediation was originally set to occur on March 20, 2024, a postponement was necessary to permit the City to obtain settlement authority from the New York City Comptroller.

March 19, 2024

Page 2

Additionally, the Parties have already exchanged Initial Disclosures and initial written discovery requests in accordance with the Court's current Scheduling Order. The Parties have also exchanged certain documents necessary for the Parties to engage in meaningful settlement negotiations—specifically, the City has produced CiyTime (timekeeping) and FISA (payroll) documents to Plaintiffs, and Plaintiffs have shared their damages calculation spreadsheet with the City in conjunction with their settlement demand.

In order to conserve the Parties' and the Court's resources, and given the Parties' optimism that they will be able to resolve the case through the mediation process on or before May 17, 2024, the Parties seek to stay the discovery deadlines set forth in the current Scheduling Order to enable them to focus their efforts on settlement. Additionally, the Parties seek to adjourn the April 11, 2024, Pretrial Conference given the Parties' hope that they will resolve the case at or before the scheduled mediation date. In the alternative, the Parties propose to extend all deadlines set forth in the Scheduling Order by 120 days. This would result in the fact discovery deadline being August 1, 2024, the expert discovery deadline being September 17, 2024, and the next Pretrial Conference being set for a date on or around August 9, 2024.

Sincerely,

McGILLIVARY STEELE ELKIN LLP



Gregory K. McGillivary

cc: All Counsel (via ECF)

The Court will not stay the case, but the application for an extension of the deadlines is granted. The deadline for fact discovery is extended to August 1, 2024 and the deadline for expert discovery is extended to September 17, 2024. The pretrial conference scheduled for April 11, 2024 is hereby ADJOURNED to **August 8, 2024 at 9:00 a.m.** The Clerk of Court is directed to terminate ECF No. 84. SO ORDERED.



March 19, 2024